

NOTICE PUBLICATION/REGULATIONS SUBMISSION

EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 209-0723-01 E
------------------	--------------------------	--------------------------	-----------------------------------

For use by Office of Administrative Law (OAL) only

2009 JUL 23 AM 11:40

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Treasurer's Office

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Redemption of Registered Warrants	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
---	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT Sections 1899.570, 1899.575, 1899.580, 1899.585
	AMEND
	REPEAL
TITLE(S) 2	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

July 15, 2009 -- July 22, 2009

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
--	---	---	--

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON

Mark Paxson

TELEPHONE NUMBER

(916) 651-6846

FAX NUMBER (Optional)

(916) 653-3125

E-MAIL ADDRESS (Optional)

mpaxson@treasurer.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



DATE

July 23, 2009

TYPED NAME AND TITLE OF SIGNATORY

Steve Coony, Chief Deputy Treasurer

For use by Office of Administrative Law (OAL) only

Adopt Title 2, Cal. Code Regs., Subchapter 5. Redemption of Registered Warrants

Section 1899.570

This subchapter shall apply to the redemption of registered warrants issued by the State Controller's Office pursuant to Chapter 2 of Part 4 of the Government Code (commencing with section 17200). This subchapter shall not apply to reimbursement warrants or refunding warrants.

Section 1899.575

Where an individual or entity holding a warrant wishes to redeem the warrant the following procedures shall apply:

(a) Any individual or entity holding a registered warrant issued in the name of the holder may redeem such registered warrant when payment is due directly with the State Treasurer's Office by:

(1) Mailing the registered warrant to the State Treasurer's Office, ATTN: Registered Warrant Desk, 915 Capitol Mall, Sacramento, CA 95814; or

(2) Presenting the registered warrant in person at the State Treasurer's Office at 915 Capitol Mall, Sacramento, California between the hours of 8:00 a.m. and 4:00 p.m.

(b) If the holder is bank or other financial institution, the registered warrant may be presented for redemption pursuant to section (a)(1) or (2), or by cash letter (which may be segregated or combined with any other warrants or items) directly to the State Treasurer's Office.

(c) A holder of a registered warrant may also be able to deposit the registered warrant with a bank or other financial institution, if the bank or financial institution is willing to accept the registered warrant. Only the holder of the registered warrant at the time of redemption is entitled to any interest owed on the registered warrant.

(d) Where the holder of a registered warrant at the time of redemption is an individual or entity other than the individual or entity to whom the State issued the registered warrant the State Treasurer's Office will redeem the registered warrant only if the holder submits with the registered warrant a notarized bill of sale signed by the individual or entity to whom the State issued the registered warrant. This requirement to present an accompanying notarized bill of sale does not apply if the third-party holder of a registered warrant is a state or local government agency, special district, bank or other financial institution, including, but not limited to, a brokerage firm, an investment banking firm, an asset management firm, or a broker-dealer.

(e) With respect to any other warrant validly issued by the State Controller's Office, where an individual other than the individual or entity to whom the warrant was issued holds the warrant, the State Treasurer's Office may prohibit such a third party holder from redeeming the warrant directly with the State and instead require processing through the individual's bank.

Section 1899.580

(a) If registered warrants are called prior to their maturity date, the State Treasurer shall do all of the following:

(1) Publish a notice of redemption for six consecutive days, excluding Sundays, in newspapers of general circulation serving Sacramento, San Francisco, and Los Angeles;

(2) Post a notice of redemption on the Treasurer's Office website at the same time as the notice is first published pursuant to subsection (a); and

(3) Advise its depository banks of the redemption at the same time as the notice is first published pursuant to subsection (a).

(b) If insufficient funds are available to redeem registered warrants on the maturity date, the State Treasurer shall redeem such registered warrants in the time and order directed by the State Controller, and as approved by the Pooled Money Investment Board.

Section 1899.585

Whenever the state issues registered warrants, the State Treasurer will post on its website a list of banks and other financial institutions that have advised the State Treasurer of a willingness to accept registered warrants prior to the maturity date.

FINDING OF EMERGENCY

State Treasurer's Office

Finding of Emergency

On June 24, 2009, the State Controller announced that, in the absence of a budget solution adopted by the end of June 2009, he would find it necessary to issue registered warrants, commonly referred to as IOUs, beginning on July 2, 2009. As of July 14, 2009, when the State Treasurer posted a Notice of Emergency Regulations, the Legislature and Governor had failed to reach an agreement resolving the budget crisis. It is anticipated that the State Controller will issue more than \$3 billion worth of IOUs for the month of July 2009, with additional IOUs being necessary in each succeeding month as long as there is no budget solution. As approved by the Pooled Money Investment Board, on July 2, 2009, the IOUs have a maturity date of October 1, 2009.

A number of banks and other financial institutions accepted IOUs through July 10, 2009. However, many of the largest institutions stopped accepting IOUs as of that date. As a result of uncertainties over whether IOUs will be readily accepted by banks and other financial institutions, significant speculation that has arisen over individuals receiving IOUs from the State may be willing or enticed into selling their IOUs to investors, whether other individuals or financial institutions or other entities that view the IOUs as an investment opportunity.

The proposed regulation is necessary to avoid serious harm to the public peace, health, safety or general welfare. Without timely adoption of this regulation, issues regarding redemption of registered warrants will remain unresolved. These issues include ensuring that the State and its assets maintained in the centralized State Treasury System are protected from fraud in the form of duplicate or forged IOUs, and also protecting members of the public who are issued IOUs and who may be susceptible to less than scrupulous individuals looking to profit off the State's financial situation. It could be argued that an emergency regulation is unnecessary because the maturity date for the IOUs is not until October 1, 2009. However, if there is a budget solution and the State's cash situation improves, the IOUs could be called for redemption at any time and the procedures proposed herein would need to be in place.

Necessity

These emergency regulations are necessary to implement the State Treasurer's responsibility with respect to the redemption of registered warrants as contemplated in Chapter 2 of Part 4 of the Government Code (commencing with section 17200). More specifically, section 17210 provides that the Treasurer is to pay registered warrants in conformance with the law. The relevant statutory provisions provide little, if any, detail with respect to how the redemption of registered warrants should be handled in

circumstances the State currently faces. These emergency regulations provide notice to members of the public with respect to the following:

- 1) the requirements for redeeming a registered warrant where an individual has purchased the registered warrant from the person or entity to whom the registered warrant was issued;
- 2) the manner by which the State Treasurer will notify the public when registered warrants are called for redemption; and
- 3) the manner by which the State Treasurer will notify the public of which financial institutions are accepting registered warrants.

Authority and Reference

Authority: Government Code sections 17210 and 17271. Provides that the Treasurer is the state official responsible for redeeming registered warrants.

Reference: Government Code section 17210. Provides that the Treasurer must pay registered warrants in conformance with the law.

Government Code section 17271. Provides that the Treasurer must pay any registered warrant with a maturity date on that date out of any unapplied money available in the General Fund.

Government Code section 17273. Provides that the Treasurer must publish a notice meeting certain requirements when registered warrants are redeemable.

Informative Digest

Existing law provides a mechanism by which the State Controller may issue a registered warrant where the amount of unapplied funds in the General Fund is insufficient to cover the warrant. Existing law further establishes certain criteria for registering warrants, issuing registered warrants, establishing maturity dates for registered warrants, setting interest rates for registered warrants, and ultimately, redeeming warrants once the designated maturity date has arrived or sufficient unapplied funds are available. As relevant here, existing law provides that it is the responsibility of the State Treasurer to redeem registered warrants in conformance with the law. However, the statutes are relatively silent with respect to some of the mechanical aspects of redeeming registered warrants.

The proposed regulations address a number of components of redeeming registered warrants including providing notice to the public and requirements where individuals holding registered warrants wish to redeem them.

Adopt Title 2, Cal. Code Regs., Subchapter 5. Redemption of Registered Warrants

Section 1899.570

This subchapter shall apply to the redemption of registered warrants issued by the State Controller's Office pursuant to Chapter 2 of Part 4 of the Government Code (commencing with section 17200).

Section 1899.575

Where an individual or entity holding a warrant wishes to redeem the warrant the following procedures shall apply:

(a) Any individual or entity holding a registered warrant issued in the name of the holder may redeem such registered warrant when payment is due directly with the State Treasurer's Office by:

(1) Mailing the registered warrant to the State Treasurer's Office, ATTN: Registered Warrant Desk, 915 Capitol Mall, Sacramento, CA 95814; or

(2) Presenting the registered warrant in person at the State Treasurer's Office at 915 Capitol Mall, Sacramento, California between the hours of 8:00 a.m. and 4:00 p.m.

(b) A holder of a registered warrant may also be able to deposit the registered warrant with a bank. However, the holder of the warrant at the time of redemption is entitled to any interest owed on the registered warrant.

(c) Where the holder of a registered warrant is an individual other than the individual or entity to whom the State issued the registered warrant the State Treasurer's Office will redeem the registered warrant only if the holder submits with the registered warrant a notarized bill of sale signed by the individual or entity to whom the State issued the registered warrant. This requirement to present an accompanying notarized bill of sale does not apply if the third-party holder of a registered warrant is a state or local government agency, special district, bank or other financial institution, including, but not limited to, a brokerage firm, an investment banking firm, an asset management firm, or a broker-dealer.

(d) With respect to any other warrant validly issued by the State Controller's Office, where an individual other than the individual or entity to whom the warrant was issued holds the warrant, the State Treasurer's Office may prohibit such a third party holder from redeeming the warrant directly with the State and instead require redemption through the individual's bank.

Section 1899.580

(a) If registered warrants are called prior to their maturity date, the State Treasurer shall do all of the following:

(1) Publish a notice of redemption for six consecutive days, excluding Sundays, in newspapers of general circulation serving Sacramento, San Francisco, and Los Angeles;

(2) Post a notice of redemption on the Treasurer's Office website at the same time as the notice is first published pursuant to subsection (a); and

(3) Advise its depository banks of the redemption at the same time as the notice is first published pursuant to subsection (a).

(b) If insufficient funds are available to redeem registered warrants on the maturity date, the State Treasurer shall redeem such registered warrants in the time and order directed by the State Controller.

Section 1899.585

Whenever the state issues registered warrants, the State Treasurer will post on its website a list of banks and other financial institutions that have advised the State Treasurer of a willingness to accept registered warrants prior to the maturity date.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency Or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

Mandate on Local Agencies or School Districts

The State Treasurer has determined that the emergency regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

The State Treasurer has determined that the Emergency Regulations do not impose any additional costs or savings requirement reimbursement under Section 17500, et al, of the Government Code, any other non-discretionary costs or savings to any local agency, or any costs or savings in federal funding to the State. Pursuant to the State Administrative Manual, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no costs or savings to any State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) of the Government Code.

Statement of Compliance with Government Code Section 11346.1(a)(2)

On July 14, 2009, the State Treasurer's Office posted the attached Notice of Emergency Regulations on its website and, on July 15, 2009, mailed it to the individuals on the mailing list, also attached. The notice provided interested parties until July 22, 2009, five working days, to provide written comments regarding the proposed emergency regulations.

State Treasurer's Office Notice of Emergency Regulations

The State Treasurer is recognized as the state official authorized to receive and keep state money, bonds, and other securities and to disburse money upon the presentment of validly issued state warrants. (See Government Code section 12300, et seq.) As relevant to this emergency rulemaking, the Treasurer is required to pay warrants drawn by the State Controller and further to pay registered warrants, commonly referred to as IOUs, in conformity with the law. (See Government Code sections 12324 and 17210.)

The Government Code further requires that "all state money shall be deposited in trust in the custody of the Treasurer," (Gov. Code section 16305.3) and that the centralized State Treasury System was established for purposes of adequately protecting state moneys. (Gov. Code section 16305.) Once a valid warrant or registered warrant is issued by the State Controller, the State Treasurer is responsible for disbursing the funds necessary to pay the warrant and also to adopt measures that are designed to protect the State's assets from fraudulent claims.

In accordance with the State Treasurer's fiduciary responsibility to protect the State's assets in the centralized State Treasury System and ensure that only valid warrants are redeemed, the State Treasurer is proposing to adopt the regulations below as emergency regulations. The draft regulations are being made available along with this statement of emergency for public comment. Comments will be accepted through **July 22, 2009**, and may be submitted via email or by letter to:

Mark Paxson, General Counsel
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814
mpaxson@treasurer.ca.gov

Finding of Emergency

On June 24, 2009, the State Controller announced that, in the absence of a budget solution adopted by the end of June 2009, he would find it necessary to issue registered warrants, commonly referred to as IOUs, beginning on July 2, 2009. As of July 14, 2009, the Legislature and Governor failed to reach an agreement resolving the budget crisis. It is anticipated that the State Controller will issue more than \$3 billion worth of IOUs for the month of July 2009, with additional IOUs being necessary in each succeeding month as long as there is no budget solution. As approved by the Pooled Money Investment Board on July 2, 2009, the IOUs have a maturity date of October 1, 2009.

A number of banks and other financial institutions accepted IOUs through July 10, 2009. However, many of the largest institutions stopped accepting IOUs as of that date. As a result of uncertainties over whether IOUs will be readily accepted by banks and other

financial institutions, significant speculation has arisen over individuals receiving IOUs from the state may be willing or enticed into selling their IOUs to investors, whether other individuals or financial institutions or other entities that view the IOUs as an investment opportunity.

The proposed regulation is necessary to avoid serious harm to the public peace, health, safety or general welfare. Without timely adoption of this regulation, issues regarding redemption of registered warrants will remain unresolved. These issues include ensuring that the State and its assets maintained in the centralized State Treasury System or protected from fraud in the form of duplicate or forged IOUs, and also protecting members the public who are issued IOUs and who may be susceptible to less than scrupulous individuals looking to profit off the State's financial situation. It could be argued that an emergency regulation is unnecessary because the maturity date for the IOUs is not until October 1, 2009. However, if there is a budget solution and the State's cash situation improves, the IOUs could be called for redemption at any time and the procedures proposed herein would need to be in place.

Proposed Regulatory Change

Adopt Title 2, Cal. Code Regs., Subchapter 5. Redemption of Registered Warrants

Section 1899.570

This subchapter shall apply to the redemption of registered warrants issued by the State Controller's Office pursuant to Chapter 2 of Part 4 of the Government Code (commencing with section 17200).

Section 1899.575

Where an individual or entity holding a warrant wishes to redeem the warrant the following procedures shall apply:

(a) Any individual or entity holding a registered warrant issued in the name of the holder may redeem such registered warrant when payment is due directly with the State Treasurer's Office by:

(1) Mailing the registered warrant to the State Treasurer's Office, ATTN: Registered Warrant Desk, 915 Capitol Mall, Sacramento, CA 95814; or

(2) Presenting the registered warrant in person at the State Treasurer's Office at 915 Capitol Mall, Sacramento, California between the hours of 8:00 a.m. and 4:00 p.m.

(b) A holder of a registered warrant may also be able to deposit the registered warrant with a bank. However, the holder of the warrant at the time of redemption is entitled to any interest owed on the registered warrant.

(c) Where the holder of a registered warrant is an individual other than the individual or entity to whom the State issued the registered warrant the State Treasurer's Office will redeem the registered warrant only if the holder submits with the registered warrant a

notarized bill of sale signed by the individual or entity to whom the State issued the registered warrant. This requirement to present an accompanying notarized bill of sale does not apply if the third-party holder of a registered warrant is a bank or other financial institution, including, but not limited to, a brokerage firm, an investment banking firm, an asset management firm, or a broker-dealer.

(d) With respect to any other warrant validly issued by the State Controller's Office, where an individual other than the individual or entity to whom the warrant was issued holds the warrant, the State Treasurer's Office may prohibit such a third party holder from redeeming the warrant directly with the State and instead require redemption through the individual's bank.

Section 1899.580

(a) If registered warrants are called prior to their maturity date, the State Treasurer shall do all of the following:

(1) Publish a notice of redemption for six consecutive days, excluding Sundays, in newspapers of general circulation serving Sacramento, San Francisco, and Los Angeles;

(2) Post a notice of redemption on the Treasurer's Office website at the same time as the notice is first published pursuant to subsection (a); and

(3) Advise its depository banks of the redemption at the same time as the notice is first published pursuant to subsection (a).

(b) If insufficient funds are available to redeem registered warrants on the maturity date, the State Treasurer shall redeem such registered warrants in the time and order directed by the State Controller.

Section 1899.585

Whenever the state issues registered warrants, the State Treasurer will post on its website a list of banks and other financial institutions that have advised the State Treasurer of a willingness to accept registered warrants prior to the maturity date.

CONSTITUTIONAL	LAST	FIRST		ADDRESS1	ADDRESS2/Roo	CITY	ZIP	PHONE
Governor	Schwarzenegger	Arnold	Rep	State Capitol Building	1st Floor	Sacramento	95814	(916) 445-2841
Attorney General	Brown	Jerry	Dem	1300 "I" Street		Sacramento	95814	(916) 322-3360
Controller	Chiang	John	Dem	300 Capitol Mall	18th Floor	Sacramento	95814	(916) 445-3028
Dept. of Finance	Genest	Mike		915 L Street		Sacramento	95814	
Senate	LAST	FIRST		ADDRESS1	ADDRESS2/Roo	CITY	ZIP	PHONE
Calderon, Ron	Calderon	Ron	Dem	State Capitol Building	5066	Sacramento	95814	(916) 651-4030
Cogdill, Dave	Cogdill	Dave	Rep	State Capitol Building	5097	Sacramento	95814	(916) 651-4014
Hollingsworth, Dennis	Hollingsworth	Dennis	Rep	State Capitol Building	305	Sacramento	95814	(916) 651-4036
Steinberg, Darrell	Steinberg	Darrell	Dem	State Capitol Building	205	Sacramento	95814	(916) 651-4006
Assembly	LAST	FIRST		ADDRESS1	ADDRESS2/Roo	CITY	ZIP	PHONE
Bass, Karen	Bass	Karen	Dem	State Capitol Building	219	Sacramento	95814	(916) 319-2047
Blakeslee, Sam	Blakeslee	Sam	Rep	State Capitol Building	4117	Sacramento	95814	(916) 319-2033
Nava, Pedro	Nava	Pedro	Dem	State Capitol Building	2148	Sacramento	95814	(916) 319-2035
Niello, Roger	Niello	Roger	Rep	State Capitol Building	6027	Sacramento	95814	(916) 319-2005
Bank	Contact LAST	Contact FIRST		ADDRESS1	ADDRESS2/Roo	CITY	ZIP	PHONE
Bank of America	Bell	Garrett		CA 91931317, 333 South Hope, Los Angeles, CA 90071	CA 31171501, 555 Capitol Mall, Sacramento, CA 95814	Los Angeles & Sacramento	90071; 95814	(213) 621-4810
Wells Fargo Bank	Nugent	Tom	VP.	Government & Educational Banking 550 California Street, 10th Floor	MAC A0112-102	San Francisco	94104	(415) 396-2456
Union Bank of California	Lindsay	Paul		700 L Street, suite 400		Sacramento	95814	(916) 321-3190
Citibank	Garrison	Thad		One Sansome St,	25th floor	San Francisco	94104	(415) 627-6101
US Bank	Kepper	David		Government Banking Division; One California Street, Suite 2100-East		San Francisco	94111-5401	(415) 273-4508

Bank of the West	Galloway	Caren		Government Banking Division; 1651 Response Road, Suite 101		Sacramento	95815	(916) 561-6623
Westamerica Bank	Coggins	Brenda		138 Peabody Road		Vacaville	95687	(707) 451-6980
Bank Associations	Contact LAST	Contact FIRST		ADDRESS1	ADDRESS2/Roo m	CITY	ZIP	PHONE
California Bankers Association				1303 J Street	Suite 600	Sacramento	95814- 2939	
California Credit Union League - Sacramento Office				1201 K Street	Suite 1050	Sacramento	95814- 3924	
California Independent Bankers				500 Newport Center Dr.	Suite 960	Newport Beach	92660	